

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

) 3:73-cv-00128-MMD-WGC

Plaintiff,

WALKER RIVER PAIUTE TRIBE,

Plaintiff-Intervenor,

**[PROPOSED] ORDER
DISCONTINUING SERVICE BY
MAIL**

V.

WALKER RIVER IRRIGATION DISTRICT,
a corporation, et al.,

Defendants.

MINERAL COUNTY,

Plaintiff-Intervenor,

V.

WALKER RIVER IRRIGATION DISTRICT,
et al.,

Defendants.

Because of the unique circumstances of this case, and for the reasons expressed herein, the Court has determined that service by mail should be discontinued, except as expressly authorized on a case-by-case basis by a separate order of the Court. **Unrepresented Parties** who have previously been served by mail must either provide the Court with an email address for electronic service, or they shall be deemed to have consented to receive service and subsequent notice of all filings by taking the responsibility to check the public website established and maintained by the Court described in this Order.

Throughout this Order, the following definitions shall apply:

“**Represented Party**” means a party who has been served, who has filed a Notice of Appearance and Intent to Participate, and who is represented by an attorney.

“**Unrepresented Party**” means a party who has been served and who previously filed a Notice of Appearance and Intent to Participate, but who is not represented by an attorney.

ATTENTION - ACTION BY YOU MAY BE NECESSARY

As a result of the Notice of Appearance and Intent to Participate previously served on defendants in this matter, those defendants were asked to provide their mailing address or that of their attorney for the purpose of service of all orders, pleadings and other documents filed in this matter.

In this Order, the Court is ordering that every **Unrepresented Party** who is receiving service by mail should complete and return the attached form titled: **Notice of Email Address or, in the Alternative, Declaration of Hardship**. Through this form, each **Unrepresented Party** must provide an e-mail address for purposes of receiving service by electronic mail. In the alternative, the **Unrepresented Party** may attempt to establish unique circumstances that make electronic service an impossibility or an undue hardship. Subsequently, the Court shall take up claims of individual circumstances/hardship on a case-by-case basis. The failure to return the “Notice” shall be interpreted by the Court to mean that the **Unrepresented Party** consents to receive service and notice of all future filings by taking the responsibility to check the public website established and maintained by the Court described in this Order.

BACKGROUND

This case or subproceeding, referred to by the designation "*Mineral County v. Walker River Irrigation District, et al.*, 3:73-CV-00128-MMD-WGC," concerns a claim by Mineral County, filed in the parent case *United States v. Walker River Irrigation District, et al.*, 3:73-

CV-0125, [PLACEHOLDER FOR SUCCINCT DESCRIPTION OF MINERAL COUNTY'S CLAIM. THIS LANGUAGE WILL BE INSERTED, AND THIS PROPOSED ORDER WILL BE RE-FILED, CONCURRENTLY WITH OR IMMEDIATELY FOLLOWING THE FILING OF MINERAL COUNTY'S SECOND AMENDED COMPLAINT IN INTERVENTION ON JUNE 30, 2021]. Through this Order, the Court is only addressing case management issues related to this subproceeding. You are receiving this Order because you are a defendant in subproceeding 3:73-cv-0128-MMD-WGC. The purpose of this Order is to identify and implement the alternative methods of service for all parties to receive or to file and serve papers pursuant to Rule 5 of the Federal Rules of Civil Procedure. This Order is hereby adopted consistent with the procedure governing Rule 5 service adopted in subproceeding 3:73-cv-0127-MMD-WGC, *United States v. Walker River Irrigation District*. See *Order Discontinuing Service by Postcard Notice, United States v. Walker River Irrigation District*, 3:73-cv-0127-MMD-WGC (Mar. 8, 2019) (Doc. 2439).

The Court is concerned with the need for an effective, efficient and inexpensive method for the Court, as well as all parties, to serve papers on **Unrepresented Parties**, and conversely to allow **Unrepresented Parties** to serve papers that they may file. Although the Court is concerned with, among other things, the cost to the judiciary of mailing paper copies, of greatest concern to the Court is that the cost of requiring every party to serve **Unrepresented Parties** by mail will unfairly impede the participation of all parties to this matter, whether represented or unrepresented. The Court has observed the cumbersomeness, confusion and expenses associated with the mail notice process. Therefore, based upon reflection and examination of proceedings, the Court has concluded that service by mail has been and will be an unnecessary expense to all parties, and the Court and the procedure should be discontinued (with limited possible exceptions based on established, individual, unique circumstances).

FINDINGS AND CONCLUSIONS

Accordingly, and based upon the foregoing, the Court finds that service on **Unrepresented Parties** by mail should be discontinued except as might be stated in a subsequent, separate order as to the specific circumstances of an **Unrepresented Party**.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

Continued Maintenance of the Public Website:

1. As specified in the Order Establishing Public Website (Doc. 801), the Clerk of the Court has established and will continue to maintain a website that is separate from the Court's official docket and available to the public, on which the Clerk has and will post Orders and other filings of this subproceeding, 3:73-cv-00128-MMD-WGC.

2. This separate public website may be accessed by selecting "Mineral County Case" from the "Case Information" menu on the Court's official website at www.nvd.uscourts.gov.

Service of This Order Discontinuing Service by Mail:

3. The Court shall serve this Order through the CM/ECF system on all **Represented Parties**.

4. The Court shall serve this Order by first class mail on all **Unrepresented Parties** who previously provided a mailing address. The Court shall serve such **Unrepresented Parties** at their last known address as reflected by the Court-maintained list of addresses and any recent correspondence with such **Unrepresented Parties**. Such service of the Order shall also include the **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** form in substance as attached hereto as Exhibit A.

Action by Unrepresented Parties Previously Served by Mail:

5. An **Unrepresented Party** within sixty (60) days of service of this Order must complete and return to the Court the attached **Notice of E-Mail Address or, in the Alternative, Declaration of Hardship**. The completed form must be received by the Court no later than _____, 2021. The form must be mailed to:

U.S. District Court Clerk, Attn: 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

Any **Unrepresented Party** with access to a computer and the Internet, is **strongly** encouraged by the Court to consent to electronic service in order to reduce the costs associated with service not only for all other parties, but also for that party, because any paper filed by that party in this matter will otherwise have to be served by U.S. mail on other parties as provided in this Order at considerable expense to the **Unrepresented Party**. An **Unrepresented Party** consenting to electronic service may wish to create a new e-mail address to receive notice from the Court that is separate from that party's personal or other e-mail addresses.

6. An **Unrepresented Party** filing a **Declaration of Hardship** bears the burden of establishing that unique circumstances result in the impossibility of electronic service or, otherwise, that the electronic service process is an undue hardship.

Consequences of Election or Failure to Elect:

7. If an **Unrepresented Party** consents to electronic service, that party will receive an email from the Court each time a document is filed in this case and in that e-mail will be directed to the website referenced in paragraph 2, above, where the document can be accessed and examined for free. Therefore, an **Unrepresented Party** consenting to electronic

1 service may wish to create a new email address to receive notice from the Court that is
2 separate from that party's personal or other email addresses.

3 8. In the event any party raises unique circumstances/claims of hardship that attempts
4 to establish the impossibility of electronic service or, otherwise, to establish that the electronic
5 service process is an undue hardship, the Court shall take up individual circumstances/claims of
6 hardship on a case-by-case basis in subsequent proceedings. The Court shall subsequently issue
7 any order as needed based on the Court's conclusions on the individual circumstances/claims
8 raised. The Court will only grant requests for exceptions to electronic service contained in
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10 **Declarations of Hardship** in extreme circumstances.

11 9. If an **Unrepresented Party** fails to respond to the **Notice of E-mail Address or,**
12 **in the Alternative, Declaration of Hardship**, that party shall be deemed to have consented and
13 agreed to receive service and subsequent notice of all filings in this matter by taking the
14 responsibility to check the public website by selecting "Mineral County Case" from the "Case
15 Information" tab of the Court's website at www.nvd.uscourts.gov.
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17 10. At any time, a party who fails to file a **Notice of E-mail Address or, in the**
18 **Alternative, Declaration of Hardship** may elect to start receiving electronic notice or
19 request postcard notice by filing with the Court a **Notice of E-mail Address or, in the**
20 **Alternative, Declaration of Hardship**. The process to file a document with the Court is
21 described below.
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23 **Service of Motions, Papers and Documents Filed With the Court:**

24 11. Except as provided in paragraph 14, below, after this Order has been issued and
25 served as described in paragraphs 3 and 4 above, for any paper filed with the Court in this
26 subproceeding, every party shall serve every other party with the item filed as follows:
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1 a. that paper will be automatically served on all **Represented Parties** through
2 the CM/ECF system;

3 b. notice that a paper has been filed will be automatically served by the Court
4 on all **Unrepresented Parties** who consented to get service by e-mail, and such notice will direct
5 the recipient to view papers through the Court's website;

6 c. service by postcard notice will be required on **Unrepresented Parties** for
7 whom the Court has approved postcard notice on a case-by-case basis as described below; and

8 d. no service will be required on **Unrepresented Parties** who fail to return a
9 **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** form as failure to file
10 such notice is interpreted as consent to receive service and subsequent notice of all filings in this
11 matter by taking the responsibility to check the public website as described herein.
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13 12. The postcard notice described in paragraph 11(c), above, must contain the
14 following information: language specifically informing the recipient that the recipient is
15 receiving a NOTICE that a paper has been filed in this litigation; language informing the
16 recipient that they are receiving the Notice as ordered by the Court; the date the paper was
17 filed; the name of the party or parties who filed the paper; the Court's docket number for the
18 filed paper; the name of the paper that was filed; and the address of the public website
19 established by the Court where the party may view, print and/or save the paper. A single
20 postcard notice may provide notice of the filing of multiple papers, and may provide notice on
21 behalf of more than one party.
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23 13. The Court shall maintain the list of those **Unrepresented Parties** for whom
24 the Court has approved postcard notice.
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Filings for Which Postcard Service Not Required:

14. Consistent with Fed. R. Civ. P. 5(a)(1)(D) and Local Rule IA 7-2, the postcard notice provided for in paragraphs 11(c) and 12 above, will not be required for a motion that may be heard *ex parte*.¹ Additionally, the postcard notice provided for in paragraphs 11(c) and 12, above, will not be required for any other filing (notice, pleading, motion, etc.) that does not affect the rights of others and does not raise a significant issue of law or fact. **At the conclusion of every filing, the filing party shall state whether the materials filed are subject to the postcard notice provided for in paragraphs 11(c) and 12, above, and, as a result, whether they have served Unrepresented Parties for whom the Court has granted a request for postcard notice.** In the event that the Court, for whatever reason, disagrees with a filing party's determination that a filing is not subject to postcard service, the Court will instruct the filing party to serve **Unrepresented Parties** for whom the Court has granted a request for postcard notice by postcard.

Availability to Public:

15. All documents filed with this Court concerning this case will be available to the public for free viewing at the Clerk's Office in Reno, Nevada, and through the website described in paragraph 2 above. Free public access to the internet and the Court's website may be made at the following locations near the Walker River Basin:

Nevada libraries near Walker River Basin with public use computers:

Carson City Library, 900 N. Roop Street, Carson City 89701 (775-887-2244)
Churchill County Library, 553 S. Maine Street, Fallon 89406 (775-423-7581)

¹ "*Ex parte*" refers to a motion or application that is filed with the Court but is not served on other parties or to a communication made with the Court outside the presence of the other parties. See Local Rule IA 7-2. Generally, a party may not appear before the Court or file documents *ex parte*; however, under specific circumstances and as permitted by the Federal Rules of Civil Procedure and the Local Rule, occasion may exist in these proceedings to appear or file documents *ex parte*. See *id.*

Douglas County Library, 1625 Library Lane, Minden 89423 (775-782-9841)
Fernley Branch - Lyon County, 575 Silver Lace boulevard, Fernley 89408 (775-575-3366)
Lyon County Central Library, 20 Nevin Way, Yerington 89447 (775-463-6645)
Mineral County Library, 110 1st Street, Hawthorne 89415 (775-945-2778)

California libraries near Walker River Basin with public use computers:

Mono County Public Libraries

94 N. School Street, Bridgeport 93517 (760-932-74820)
111569 Hwy. 395, Coleville 96107(530-495-2788)
400 Sierra Park Road, Mammoth Lakes 93546 (760-934-4777)

Filings by Unrepresented Parties:

16. **Unrepresented Parties** may file documents in this subproceeding 3:73-cv-00128-MMD-WGC by mail or in person with the Clerk of the Court at:

Clerk of the Court
400 S. Virginia Street, Room 301
Reno, Nevada 89501

17. In connection with all such filings, **Unrepresented Parties** must follow the requirements set forth in the Local Rules for the Federal District Court of Nevada, which are available through the Court's official website (www.nvc.uscourts.gov) and at the Clerk's Office and must comply with the service requirements described herein.

Changes of Address and/or E-mail:

18. The Court maintains the mailing and e-mail address of every **Unrepresented Party**. Every **Unrepresented Party** to this action must notify the Court if their e-mail address or mailing address changes. In the event that the Court receives notification from the U.S. Postal Service that a mailing address is no longer valid, or learns that the e-mail address associated with an **Unrepresented Party** is no longer valid, the Court shall no longer rely upon that address, and shall remove that address from the list maintained. Any **Unrepresented Party** whose mailing or

e-mail address is determined to be invalid may resume receiving correspondence by providing the Court with his/her valid mailing or e-mail address, as the case may be.

19. Notice of all mailing or email address changes must be filed with the Court at
U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

20. **Unrepresented Parties** who fail to notify the Court of mailing or e-mail address changes and who, as a result of such failure, do not receive notice of a filed document, will nevertheless be deemed to have notice of that document and all subsequent orders and other filings in this matter.

Required Form to Complete and Return to the Court:

21. The **Notice of E-mail Address or, in the Alternative, Declaration of Hardship** shall be completed and shall be returned to:

U.S. District Court Clerk, Attn. 3:73-cv-00128-MMD-WGC Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Room 301
Reno, Nevada 89501

22. **Unrepresented Parties** needing assistance with the electronic notice and/or filing procedures provided for herein are encouraged to contact the Clerk of Court at 775-686-5800, 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays.

1 **Miscellaneous:**

2 23. All parties are encouraged to keep a copy of this Order and a copy of their
3 completed Notice of Consent to Electronic Service or Declaration of Hardship for future reference.

4 DATED: _____, 2021

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UNITED STATES MAGISTRATE JUDGE
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